REMARKS

Claims 1-17 remain pending in the application. Claims 1, 6, 7, and 11-17 have been amended. No claims have been added or canceled. All amendments are fully supported by the original disclosure and no new matter is added.

CLAIM OBJECTION

In the Office Action, claims 1, 7, 12 and 15 were objected to because of the following informality: the phrase "plurality of components coupled to each other" was found to be unclear. Applicants respectfully acknowledge the Examiner's objection. Applicants have amended these claims to recite a processor and a transceiver in place of "plurality of components."

Claims 6 and 13 were objected to, without further explanation, for use of the word "removably." Applicants respectfully submit that the use of "removably" in the claim is entirely proper, as "removably" describes the manner in which the storage is *attached* to the wireless phone. Applicants further note that a search of the USPTO Patent Full Text Database reveals 97,754 issued patents that recite "removably" in one or more claims. See e.g. U.S. Patent No. 7,540,023 to Ito, et al. issued on May 29, 2009 (claim 5, "...connection section to which a device is <u>removably *connected*</u>..."). This recitation is sufficiently clear to apprise persons with ordinary skill what Applicants claim. Should this objection be maintained, Applicants respectfully request that the Examiner provide a clear explanation of the objection in order to apprise Applicants of the reason for the objection and to provide a complete prosecution history record. See MPEP 707.07(f).

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In the Office Action, claims 1, 3, 7, 9 and 12-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,788,928 to Kohinata (hereinafter "Kohinata") in view of Published U.S. Patent No. 6,544,174 to West et al (hereinafter "West"). More specifically, the Examiner states that it would have been obvious to one of ordinary skill in the art to modify the temperature and fingerprint-based user authentication for cell phones taught by Kohinata with the wireless vital signs monitor of West in order to arrive at the recitations of the rejected claims.

Applicants respectfully traverse all rejections and respectfully submit that the references cited do not teach or suggest the features of the claims, as discussed below. However, Applicants have amended the independent claims without prejudice for the sole purpose of advancing prosecution. As amended, claim 1 recites a wireless mobile phone comprising:

a <u>processor</u>;

a transceiver coupled to the processor to facilitate wireless telephony communication by a user;

a plurality of sensors to facilitate real time capturing of a heart beat profile of a user <u>from the user's hand</u>; and

operating logic to receive the real time captured heart beat profile of the user and to selectively operate the components depending on whether the user is successfully authenticated via a real time captured heart beat profile of the user.

Support for "<u>from the user's hand</u>" may be found at least in paragraph [0049] and Fig.'s 1, 2 and 4. Support for a processor may be found at least in paragraph [0037] and in Fig. 3.

Kohinata does not teach or suggest these features. At most, Kohinata teaches a cellular phone comprising a user authentication module that senses temperature and captures a fingerprint image in order to authenticate the user. As conceded on page 3 of the Office

Action, Kohinata neither teaches nor suggests "a plurality of sensors to facilitate real time capturing of a heart beat profile of the user." Thus, by extension, Kohinata also fails to teach or suggest capturing such a heart beat profile from the user's hand, "operating logic to receive the real time captured heart beat profile of the user," or that the operating logic selectively operates the components depending on successful authentication of the user "via a real time captured heart beat profile of the user."

West cannot remedy the deficiencies of Kohinata. West merely teaches a patient monitor 22a with a plurality of sensor input ports 82, allowing the monitor to be connected to a sensor assembly for monitoring vital signs of patients via cables 83. West does not teach or suggest using the sensors to facilitate capturing of a heart beat profile from the user's hand. More importantly, West in no way suggests capturing a "profile" of a user at all – West is concerned with continuous monitoring for medical purposes, not identification. Finally, West in no way teaches or suggests authenticating a user via a real time captured heart beat profile.

In addition, Applicants respectfully submit that the West reference is non-analogous art. The criteria for determining whether prior art is analogous are: (1) whether the art is from the same field of endeavor, regardless of the problem addressed, and (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. *In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992) (Board's finding that reference was analogous art was clearly erroneous because *storage* of hydrocarbons and *extraction* of hydrocarbons were different fields of endeavor, and reference was not 'reasonably pertinent' due to its different purpose, structure, and function); *see also* **MPEP 2141.01(a)**.

First, the West reference is from a different field of endeavor. Applicants' field of endeavor is user authentication for mobile devices. In contrast, West's field of endeavor is wireless monitoring of patients and communication of patients' vital signs for medical purposes. Therefore, the West reference is **not** from the same field of endeavor.

Second, the West reference **is not reasonably pertinent** to user authentication for mobile devices. "A reference is reasonably pertinent if . . . it is one which, because of the matter with which it deals, <u>logically would have commended itself to an inventor's attention in considering his problem</u>. . . . If a reference disclosure has the <u>same purpose</u> as the claimed invention, the reference relates to the same problem, and that fact supports use of that reference in an obviousness rejection. . . . If it is directed to a <u>different purpose</u>, the inventor would accordingly have had <u>less motivation or occasion to consider it</u>." *In re Clay*, 966 F.2d at 659; see also MPEP 2141.01(a).

Applicants note that West and Kohinata, alone or in combination, **do not teach or even suggest that an individual's heart beat profile could be used to authenticate a user** (e.g. that heart beat profiles vary sufficiently among individuals to be useful in authentication). No such reference has been cited. Therefore, a person with skill in the art **would lack motivation** to combine these references for the purpose of authenticating a user of a mobile device. Additional evidence that West is not reasonably pertinent to Applicants' recitations is evidenced by the differences in:

- Purpose – West discloses a <u>patient vital signs monitor</u> used as part of a system for allowing clinicians to <u>continuously monitor</u> the vital signs of patients within a facility or other environments for medical purposes (col. 4, lines 15-25). In contrast, claim 1 recites real time capturing of a heart beat profile from a user's hand and selectively operating the components depending on whether the user is successfully authenticated via the real time captured heart beat profile.

- Structure – West discloses a portable housing with sensor input ports 82. These ports are adapted to connect via cables to different types of sensor assemblies in order to monitor various vital signs (col. 12, lines 45-65) – in other words, the monitor of West may be attached to sensors but does not include them. In contrast, Applicants recite a mobile phone with a plurality of sensors to facilitate real time capturing of a heart beat profile of a user from the user's hand.

- Function – The monitor of West receives data from external sensors and transmits them to a central station or other element of a medical telemetry network where they can be received by clinicians (see Fig 2, also col. 6 lines 34-54) and there is no disclosure of measuring any sort of vital sign from a hand. In contrast, Applicants recite a mobile phone with sensors to facilitate real time capturing of a heart beat profile of a user from the user's hand, and operating logic to selectively operate the components depending on whether the user is successfully authenticated via a real time captured heart beat profile of the user.

For at least these reasons, Kohinata and West cannot teach or suggest the recitations of claim 1. Claim 1 is therefore patentable over Kohinata and West, alone or in combination.

Claims 2-6 depend from claim 1, incorporating its recitations, and are thus patentable for at least the same reasons.

Claims 7, 12 and 15 were rejected for the same reasons as claim 1. Claims 7, 12 and 15 have been amended to recite essentially the same subject matter as claim 1, and are therefore patentable over the cited references for at least the same reasons.

Claims 8-11, 13-14, and 16-17 depend from claims 7, 12 or 15, respectively, and incorporate the recitations of their base claims. Therefore, these claims are also patentable over the cited references.

Applicants respectfully submit that all pending claims are in condition for allowance.

<u>CONCLUSION</u>

In view of the foregoing, reconsideration and allowance of all pending claims is respectfully solicited. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1513. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
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Date: <u>July 9, 2009</u>   by: <u>/Dennis M. de Guzman/</u>
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